

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

United States Fire Insurance Company,

NO. C 09-02388 JW

Plaintiff,

v.

Vesta Strategies, LLC, et al.,

Defendants.

**ORDER VACATING HEARING ON  
ORDER TO SHOW CAUSE RE: JOINDER  
OF THIRD PARTIES AND STANDING TO  
ASSERT CROSS-CLAIMS; TAKING  
MATTER UNDER SUBMISSION**

This case is scheduled for a hearing on April 19, 2010 on the Court's Order to Show Cause Re: Joinder of Third Parties and Standing to Assert Cross-Claims. (hereafter, "March 25, 2010 Order," Docket Item No. 165.) In its March 25, 2010 Order, the Court ordered briefing on the following two issues:

- (1) Whether Depositors' Cross-Complaint and Counter-Complaint improperly added numerous parties and claims to this case.<sup>1</sup>
- (2) Whether Depositors lacked standing to pursue their claims against Insurers in light of the Court's appointment of a receiver to stand in the shoes of Vesta Strategies, LLC and Excalibur 1031 Group, LLC.<sup>2</sup>

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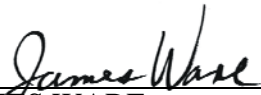
<sup>1</sup> Depositors are Samuel Henka, Joyce Simmons, Michael Simmons, Christopher Walsh, and Maria Del Carmen Alonso.

<sup>2</sup> Insurers are U.S. Fire Insurance Co., Continental Casualty Co., and Liberty Mutual Insurance Co.

1           Upon review of the parties' submissions in advance of the hearing, the Court finds the  
2 briefing to inadequately address the issues presented. Thus, the Court finds that it needs additional  
3 time to adequately analyze the issues it raised *sua sponte*.

4           Accordingly, the Court VACATES the April 19, 2010 hearing and takes the matter under  
5 submission without oral argument.

6  
7 Dated: April 15, 2010

  
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JAMES WARE  
United States District Judge

**THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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**Dated: April 15, 2010**

**Richard W. Wieking, Clerk**

By: /s/ JW Chambers  
**Elizabeth Garcia**  
**Courtroom Deputy**